

Senate File 2263 - Introduced

SENATE FILE 2263
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3100)

A BILL FOR

1 An Act relating to clerks of court, including the collection
2 of court debt, the filing of medical reports, and the
3 indexing of notices of lis pendens by county recorders,
4 out-of-state-witness mileage expenses, and including
5 effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

COLLECTION OF COURT DEBT

Section 1. Section 602.8107, subsection 2, unnumbered paragraph 1, Code 2016, is amended to read as follows:

Court debt shall be owed and payable to the clerk of the district court, the clerk of the court of appeals, or the clerk of the supreme court. All amounts collected shall be distributed pursuant to [sections 602.8106](#) and [602.8108](#) or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. Any fees charged to the clerk with respect to payment by credit card may be paid from receipts collected by credit card.

Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

FILING OF CHIEF MEDICAL OFFICER'S REPORT

Sec. 3. Section 125.84, unnumbered paragraph 1, Code 2016, is amended to read as follows:

The facility administrator's report to the court of the chief medical officer's substance abuse evaluation of the respondent shall be made no later than the expiration of the time specified in [section 125.83](#). ~~At least two copies of the~~ The report shall be filed with the clerk, who shall distribute the copies of the report in the manner described by section 125.80, subsection 2. The report shall state one of the four following alternative findings:

Sec. 4. Section 229.14, subsection 1, unnumbered paragraph 1, Code 2016, is amended to read as follows:

The chief medical officer's report to the court on the psychiatric evaluation of the respondent shall be made not later than the expiration of the time specified in section 229.13. ~~At least two copies of the~~ The report shall be filed with the clerk, who shall ~~dispose of them~~ distribute copies of the report in the manner prescribed by section 229.10,

1 subsection 2. The report shall state one of the four following
2 alternative findings:

3 Sec. 5. EFFECTIVE UPON ENACTMENT. This division of this
4 Act, being deemed of immediate importance, takes effect upon
5 enactment.

6 DIVISION III

7 RECORDING OF LIS PENDENS

8 Sec. 6. Section 331.602, Code 2016, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 34A. Record and index a notice of lis
11 pendens and related documents as provided in section 617.10.

12 Sec. 7. Section 364.22, subsection 5, paragraph a, Code
13 2016, is amended to read as follows:

14 a. Upon receiving a citation under [subsection 4](#) that
15 affects real property and that charges a violation relating
16 to the condition of the property, including a building code
17 violation, a local housing regulation violation, a housing code
18 violation, or a public health or safety violation, ~~the clerk of~~
19 ~~the district court shall index the citation pursuant to section~~
20 ~~617.10~~, if the legal description of the affected property is
21 included in or attached to the citation, the city shall file
22 the citation with the clerk of the district court and a notice
23 of lis pendens with the county recorder pursuant to section
24 617.10.

25 Sec. 8. Section 575.1, subsection 2, paragraph b,
26 subparagraph (1), Code 2016, is amended to read as follows:

27 (1) Pendency of such a proceeding shall not be indexed
28 under [section 617.10](#) and shall not constitute lis pendens or
29 constructive notice to third persons under sections 617.11
30 through ~~617.15~~ 617.14.

31 Sec. 9. Section 602.8102, subsection 94, Code 2016, is
32 amended by striking the subsection.

33 Sec. 10. Section 602.8105, subsection 2, paragraph g, Code
34 2016, is amended by striking the paragraph.

35 Sec. 11. Section 617.10, Code 2016, is amended by striking

1 the section and inserting in lieu thereof the following:

2 **617.10 Notice of lis pendens.**

3 1. When a petition or municipal infraction citation
4 affecting real estate is filed, any party to the pending action
5 may file a notice of lis pendens with the county recorder of
6 each county in which any part of the real estate lies.

7 2. A notice of lis pendens shall contain all of the
8 following:

9 a. The names of the parties.

10 b. The object of the action.

11 c. A description of the property involved or to be affected.

12 d. The county where the action is filed.

13 e. The associated case number.

14 3. a. The county recorder shall endorse on each notice of
15 lis pendens the day, hour, and minute when filed for recording
16 and the document reference number, and shall preserve the
17 notice. The recorder shall also immediately index the notice
18 and record the lis pendens in the manner provided for recording
19 real estate mortgages.

20 b. If a pleading is amended in such action which alters
21 the description of the real estate or the extent of the claim
22 affecting the real estate, a new notice may be filed.

23 4. If, after the notice of lis pendens is recorded, the
24 action is dismissed, with or without prejudice, the notice of
25 lis pendens is canceled as of the date of the dismissal.

26 5. The county recorder shall collect fees specified in
27 section 331.604 from the party filing the notice of lis
28 pendens.

29 6. The party who files a notice of lis pendens with a county
30 recorder shall also electronically file a copy of the notice
31 with the clerk of the district court where the action was
32 filed.

33 Sec. 12. Section 617.11, Code 2016, is amended to read as
34 follows:

35 **617.11 Lis pendens.**

1 1. When a petition or municipal infraction citation
2 affecting real estate is filed and a notice of lis pendens
3 is indexed pursuant to section 617.10, either action shall
4 be considered pending so as to charge all third persons with
5 notice of its pendency, and while pending no interest can be
6 acquired by third persons in the subject matter thereof as
7 against the ~~plaintiff's~~ rights of the party that filed the
8 notice. For purposes of this subsection, an action is pending
9 until the court enters a final order, including appeal and
10 remand, or the court orders disposition, if any, of the real
11 estate described in the notice of lis pendens, whichever is
12 later.

13 2. If a claim of interest against the property is acquired
14 prior to the indexing of a ~~petition affecting real estate~~ the
15 notice of lis pendens and is filed by anyone other than a city
16 and such claim is not indexed or filed of record prior to the
17 indexing of the ~~petition~~ notice of lis pendens, ~~it~~ such claim
18 is subject to the pending action as provided in subsection 1,
19 unless any of the following occurs:

20 a. The claimant intervenes in the pending action prior to
21 entry of judgment.

22 b. The claimant, prior to transfer of an interest in the
23 property to a bona fide third-party transferee, records an
24 affidavit showing that the party seeking relief under the
25 pending action had, prior to the indexing of the ~~petition~~
26 notice of lis pendens, actual notice of the claim of interest
27 and of the identity of the claimant.

28 3. If a claim of interest against the property is acquired
29 prior to the indexing of a ~~petition or municipal infraction~~
30 ~~citation affecting real estate~~ notice of lis pendens and is
31 filed by a city and such claim is not indexed or filed of record
32 prior to the indexing of the ~~petition or citation~~ notice of
33 lis pendens, ~~it~~ such claim is subject to the pending action
34 as provided in subsection 1, unless either of the following
35 occurs:

1 a. The claimant intervenes in the pending action and obtains
2 relief from the court prior to entry of judgment.

3 b. Within ninety days after entry of judgment, the claimant
4 files an application to reopen a petition or municipal
5 infraction citation affecting real estate and filed by a city
6 and proves at the hearing on the application that the claimant
7 is entitled to relief because the city had actual notice of the
8 claim of interest and of the identity of the claimant prior to
9 the indexing of the ~~petition or citation~~ notice of lis pendens.

10 4. Subsections 2 and 3 shall not apply to a mechanic's lien
11 filed pursuant to chapter 572 or to a person who has taken
12 possession of the property for value prior to the indexing of
13 the ~~petition or citation~~ notice of lis pendens.

14 Sec. 13. Section 617.13, Code 2016, is amended to read as
15 follows:

16 **617.13 Real estate in other county.**

17 When any part of real property, the subject of an action, is
18 situated in any other county than the one in which the action
19 is brought, ~~the plaintiff must~~ a party, in order to affect
20 third persons with constructive notice of the pendency of the
21 action, must file with the ~~clerk of the district court~~ county
22 recorder of the other county a notice of ~~the pendency of the~~
23 ~~action, containing the names of the parties, the object of~~
24 ~~the action, and a description of the property in that county~~
25 ~~affected by the action~~ lis pendens which complies with section
26 617.10. ~~The clerk shall at once index and enter a memorandum~~
27 ~~of the notice in the encumbrance book.~~

28 Sec. 14. Section 655A.3, subsection 3, Code 2016, is amended
29 to read as follows:

30 3. The mortgagee may file a written notice required in
31 subsection 1 together with proof of service on the mortgagor
32 with the recorder of the county where the mortgaged property is
33 located. Such a filing shall have the same force and effect on
34 third parties as ~~an indexed notation entered~~ a notice of lis
35 pendens indexed by ~~the clerk of the district court~~ a county

1 recorder pursuant to [section 617.10](#), commencing from the filing
2 of proof of service on the mortgagors and terminating on the
3 filing of a rejection pursuant to [section 655A.6](#), an affidavit
4 of completion pursuant to [section 655A.7](#), or the expiration
5 of ninety days from completion of service on the mortgagors,
6 whichever occurs first.

7 Sec. 15. Section 657.2A, subsection 1, Code 2016, is amended
8 to read as follows:

9 1. When a petition affecting real property is filed by
10 a governmental entity under [this chapter](#), ~~the clerk of the~~
11 ~~district court shall index the petition pursuant to section~~
12 ~~617.10~~, if the legal description of the affected property is
13 included in or attached to the petition, the governmental
14 entity shall file a notice of lis pendens with the county
15 recorder pursuant to section 617.10.

16 Sec. 16. Section 657A.12, subsection 1, Code 2016, is
17 amended to read as follows:

18 1. When a petition affecting real property is filed by
19 a governmental entity under [this chapter](#), ~~the clerk of the~~
20 ~~district court shall index the petition pursuant to section~~
21 ~~617.10~~, if the legal description of the affected property is
22 included in or attached to the petition, the governmental
23 entity shall file a notice of lis pendens with the county
24 recorder pursuant to section 617.10.

25 Sec. 17. REPEAL. Sections 617.12 and 617.15, Code 2016,
26 are repealed.

27 Sec. 18. APPLICABILITY. This division of this Act applies
28 to petitions or municipal infraction citations affecting real
29 estate filed on or after January 1, 2017.

30 DIVISION IV

31 OUT-OF-STATE-WITNESS FEES

32 Sec. 19. Section 819.3, Code 2016, is amended to read as
33 follows:

34 **819.3 Fees and enforcement of order.**

35 1. A witness named in an order described in [section 819.2](#)

~~1 is entitled to ten cents per mile for each mile traveled by the~~
~~2 most direct route shall receive mileage expenses calculated~~
~~3 in the same manner as mileage expenses are reimbursed under~~
~~4 section 602.1509 for each mile actually traveled to and from~~
5 the proceedings the witness is required to attend, and is also
6 entitled to ten dollars per day for each day spent in such
7 travel or in attending the proceedings as a witness.

8 2. If such witness fails without good cause to attend and
9 testify as directed by such order the witness shall forfeit
10 the right to receive mileage and per diem, and shall be guilty
11 of contempt of court for which the witness may be punished
12 accordingly.

EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 This bill relates to clerks of court, permits the collection
17 of court debt by the clerk of the court of appeals and the clerk
18 of the supreme court, reduces the number of medical reports
19 required to be filed with a clerk of court after an involuntary
20 commitment in connection with a substance-related disorder or
21 a serious mental impairment, and transfers the responsibility
22 to file a notice of lis pendens from the clerk of court to the
23 claimant.

24 DIVISION I — COLLECTION OF COURT DEBT. Under current law,
25 court debt is payable to the clerk of the district court.
26 This division amends current law to allow the clerk of the
27 court of appeals and the clerk of the supreme court to also
28 accept payment of court debt. The division takes effect upon
29 enactment.

DIVISION II — FILING OF CHIEF MEDICAL OFFICER'S REPORT.

Under current law, if a person has been involuntarily committed to a facility in connection with a substance-related disorder or a serious mental impairment, the facility administrator is required to file two copies of the chief medical officer's substance abuse evaluation or psychiatric evaluation with the

1 clerk of court. This division provides that only one copy of
2 the substance abuse evaluation or psychiatric evaluation needs
3 to be filed with the clerk of court. The division takes effect
4 upon enactment.

5 DIVISION III — RECORDING OF LIS PENDENS. Lis pendens
6 is a public notice of a lawsuit affecting real estate. The
7 effect of lis pendens is that if a person purchases real
8 estate subject to a pending lawsuit after the filing of lis
9 pendens, the purchaser takes the real estate subject to all
10 the plaintiff's claims in the property that are established
11 in the lawsuit. This division provides that a lawsuit is
12 pending until the court enters a final order, including appeal
13 and remand, or the court enters disposition, if any, of the
14 property described in the notice of lis pendens, whichever is
15 later.

16 Under current law, when a petition or municipal infraction
17 citation affecting real estate is filed, the clerk of the
18 district court indexes the petition or municipal infraction
19 citation in an index book under the tract number which
20 describes the property.

21 The division provides that the clerk of district court is
22 not required to index the petition or municipal infraction
23 citation. Instead, when a petition or municipal infraction
24 citation affecting real estate is filed, any party to the
25 pending action may file a notice of lis pendens with the county
26 recorder of each county in which any part of the real estate
27 lies. The notice of lis pendens must contain the names of
28 the parties, the object of the action, a description of the
29 property involved or to be affected, the county where the
30 action is filed, and the associated case number. The division
31 requires that county recorder to endorse on each notice of lis
32 pendens the day, hour, and minute when filed for recording and
33 the document reference number. The recorder must also index
34 the notice and record the lis pendens in the manner provided
35 for recording real estate mortgages.

1 The division requires the party who files a notice of lis
2 pendens with a county recorder to also electronically file a
3 copy of the notice with the clerk of the district court where
4 the action is filed. The \$50 filing fee currently collected
5 by the clerk of the district court is abolished. The party who
6 files the notice of lis pendens is required to pay the county
7 recorder filing fees specified in Code section 331.604.

8 The division provides that if the action is dismissed,
9 the notice of lis pendens is canceled as of the date of the
10 dismissal.

11 The division applies to petitions or municipal infraction
12 citations affecting real estate filed on or after January 1,
13 2017.

14 The division makes conforming changes.

15 DIVISION IV — OUT-OF-STATE-WITNESS FEES. Under current
16 law, a judge can order a person from another state to appear
17 as a witness in this state, and such person is entitled to
18 reimbursement of 10 cents per mile for each mile traveled
19 to and from the proceedings the person is required to
20 attend. This division amends current law to provide that an
21 out-of-state witness shall be reimbursed in the same manner as
22 mileage expenses are reimbursed under Code section 602.1509,
23 which directs a person to be paid actual and necessary
24 expenses, not to exceed a maximum amount established by the
25 Iowa supreme court.